

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No. 01-455-A
	)	
ZACARIAS MOUSSAOUI	)	
a/k/a "Shaqil,"	)	
a/k/a "Abu Khalid	)	
al Sahrawi,"	)	
	)	
Defendant.	)	

ORDER

In response to the Court's Order of August 29, 2003, the Government has filed a Motion for Substitutions Pursuant to CIPA §6(c)(2) ("Motion for Substitutions"). For the reasons stated in our Memorandum Opinion of May 15, 2003, we find the Proposed Substitutions to be inadequate substitutes for the Fed. R. Crim. P. 15 depositions ordered by the Court on August 29, 2003.

Accordingly, the Government's motion is DENIED; and it is hereby

ORDERED that the September 16, 2003 deadline for any defense response to the Government's Proposed Substitutions is VACATED; and it is further

ORDERED that the United States advise the Court by Wednesday, September 10, 2003 whether it intends to comply with our Order of August 29, 2003.

In its Motion for Substitutions, the Government indicates that it has not disclosed its Proposed Substitutions to Mr. Moussaoui because the defendant does not have, and will not be granted, the requisite national security clearance to have access to classified information. (Motion for Substitutions at 1 fn.

1). In response, standby defense counsel filed a Motion to Compel Production to the Pro Se Defendant of the Government's Motion for Substitutions and the Government's Proposed Substitutions ("Motion to Compel"), arguing that the Government's refusal to provide Mr. Moussaoui with copies of its pleading, and attachments thereto, is inconsistent with previous procedures adopted by the Court and deprives the defendant of an opportunity to "meaningfully participate in the substitution process." (Motion to Compel at 2).

Because the Court has already found the Government's proposals to be inadequate substitutes for the witnesses' deposition testimony, the Motion to Compel is DENIED as moot. However, consistent with the treatment of other classified filings in this case, it is hereby

ORDERED that the United States submit its Motion for Substitutions for a classification review so that, to the extent possible, an unclassified version can be provided to the pro se defendant and placed in the public record as soon as possible.

The Clerk is directed to forward copies of this Order to the defendant, pro se; counsel for the United States; standby defense counsel; and the Court Security Officer.

Entered this 8<sup>th</sup> day of September, 2003.

/s/

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Leonie M. Brinkema  
United States District Judge

Alexandria, Virginia